

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NEW YORK

BLACK LOVE RESISTS IN THE RUST, *et al.*,  
individually and on behalf of a class of all others  
similarly situated,

Plaintiffs,

v.

CITY OF BUFFALO, N.Y., *et al.*,

Defendants.

No. 1:18-cv-00719-CCR

**STIPULATED MOTION TO MODIFY THE SCHEDULING ORDER**

The Parties respectfully move to (1) amend the scheduling order to extend all deadlines by approximately two-and-a-half months; (2) establish deadlines for the production of certain documents; and (3) set dates for the depositions of certain witnesses.

The Parties propose to extend the deadlines in the scheduling order as follows:

<b>Deadline</b>	<b>Current Date</b>	<b>Modified Date</b>
Completion of fact discovery	June 29, 2023	September 15, 2023
Motion to compel discovery	June 29, 2023	September 15, 2023
Class certification motion	July 25, 2023	October 11, 2023
Service of initial expert reports	August 8, 2023	October 25, 2023
Service of rebuttal expert reports	September 7, 2023	November 24, 2023
Completion of all expert discovery	October 5, 2023	December 22, 2023
Dispositive Motions	October 30, 2023	January 24, 2024

Defendants will correct deficiencies in their productions in response to Plaintiffs' Requests for Production 39 and 42 by producing the missing materials as follows:

Materials	Deadline
<p>Body camera footage:</p> <ul style="list-style-type: none"> <li>• EC2017-022</li> <li>• EC2017-027</li> <li>• I/O 2017-025</li> <li>• I/O 2017-078</li> <li>• Related to COB429304</li> </ul> <p>Missing materials from investigation files:</p> <ul style="list-style-type: none"> <li>• EC2015-031</li> <li>• EC2015-043</li> <li>• EC2015-053</li> <li>• EC2015-059</li> <li>• EC2016-025</li> <li>• EC2016-040</li> <li>• EF2015-013</li> <li>• EF2017-005</li> <li>• I/O 2015-088</li> <li>• I/O 2016-042</li> <li>• I/O 2016-105</li> </ul> <p>Unproduced investigation files:</p> <ul style="list-style-type: none"> <li>• EC2013-007</li> <li>• EC2013-057</li> <li>• EC2016-041</li> <li>• I/O 2015-010</li> <li>• I/O 2015-034</li> <li>• I/O 2016-025</li> <li>• I/O 2016-096</li> <li>• I/O 2017-010</li> <li>• I/O 2017-025</li> <li>• I/O 2017-040</li> <li>• I/O 2016-032</li> <li>• Complaint related to COB405577</li> <li>• EC2014-094</li> <li>• I/O 2015-052</li> <li>• I/O 2016-082</li> </ul>	June 30

<p>Body Camera Footage for:</p> <ul style="list-style-type: none"> <li>• EC2018-043</li> <li>• EC2021-014</li> <li>• EC2021-053</li> <li>• EC2021-061</li> <li>• EC2022-018</li> <li>• EF2018-010</li> <li>• I/O 2018-032</li> <li>• I/O 2018-053</li> <li>• I/O 2018-092</li> <li>• I/O 2018-105</li> <li>• I/O 2019-009</li> <li>• I/O 2019-026</li> <li>• I/O 2020-017</li> <li>• I/O 2020-024</li> <li>• I/O 2021-055</li> <li>• Related to COB239058</li> </ul> <p>Missing materials from investigation files:</p> <ul style="list-style-type: none"> <li>• EC2018-043</li> <li>• EC2021-014</li> <li>• EC2021-028</li> <li>• EC2021-053</li> <li>• EC2022-018</li> <li>• EF2018-010</li> <li>• I/O 2018-053</li> <li>• I/O 2019-009</li> <li>• I/O 2020-021</li> <li>• I/O 2020-024</li> </ul> <p>Unproduced investigation files:</p> <ul style="list-style-type: none"> <li>• EC2020-034</li> <li>• I/O 2018-047</li> <li>• I/O 2018-011</li> <li>• EC2020-009</li> <li>• EC2021-061</li> <li>• Complaint related to COB239058</li> <li>• Complaint related to COB080914</li> <li>• Complaint related to COB110403</li> <li>• Allegations by QS against BPD officers RA and MS in May 2020</li> <li>• BPD's March 29, 2022 pursuit of KB's vehicle due to alleged tinted windows</li> <li>• EC2018-050</li> <li>• I/O 2019-083</li> <li>• I/O 2021-055</li> <li>• I/O 2021-056</li> </ul>	July 14
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Missing materials from investigation files: <ul style="list-style-type: none"> <li>• EC2016-027</li> <li>• EC2017-027</li> <li>• EC2022-031</li> <li>• EF2016-021 recorded statement of complainant; DVD/CD of case-file</li> </ul> Unproduced investigation files <ul style="list-style-type: none"> <li>• EC2013-005</li> <li>• EC2013-006</li> <li>• EC2017-025</li> <li>• EC2017-026</li> <li>• EC2022-016</li> <li>• IC2022-142</li> <li>• I/O 2015-018</li> <li>• I/O 2022-033</li> <li>• Complaint related to COB426918</li> <li>• Complaint related to COB268615</li> <li>• EC2022-046</li> <li>• I/O 2015-063</li> <li>• I/O 2022-004</li> </ul>	July 21
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Defendants shall make good faith efforts to produce witnesses in accordance with the schedule listed below. Should a witness be unavailable on the date listed, Defendants will propose, at the time they notify Plaintiffs of the witness's unavailability, a different date or dates within the current discovery schedule when the witness is available, and the Parties shall work collaboratively to reschedule the deposition to the nearest available date for both the witness and the Parties.

<b>Witness</b>	<b>Date</b>
Justin Tedesco	July 10
Jared Domaracki	July 11
Donna Estrich	July 12
Michael Healy	July 13
Richard Hy	July 19
Michael Acquino	July 25
Byron Lockwood	July 26
Harold McClellan	August 4
Joseph Gramaglia	August 9
Robert Rosenswie	August 18

<b>Witness</b>	<b>Date</b>
City of Buffalo 30(b)(6)	August 24
Mayor Byron Brown	August 29

In support of this Motion, the Parties state:

1. Under the present schedule, the deadline for completion of fact discovery and any accompanying motion to compel is June 29, 2023. The Court has set additional deadlines, leading to a dispositive motion deadline of October 30, 2023.

2. The Parties continue to proceed with document discovery and depositions. With respect to document discovery, on March 31, 2023, Plaintiffs sent Defendants a letter identifying certain deficiencies in Defendants' previous document productions relating to BPD investigations and responses to complaints of racial discrimination. The Parties have met and conferred, and Defendants have agreed to search for and produce the missing materials in accordance with the schedule above. In addition, on April 25, 2023, Plaintiffs requested that Defendants update and supplement their production in accordance with Federal Rule of Civil Procedure 26(e). Defendants are in the process of producing updated and supplemental materials in response to Plaintiffs' request.

3. With respect to Plaintiff depositions, the parties completed a Rule 30(b)(6) deposition of Black Love Resists in the Rust on May 9, 2023; the deposition of Dorethea Franklin on May 15, 2023; the deposition of Taniqua Simmons on May 16, 2023; and the deposition of De'Jon Hall on May 17, 2023. The Parties are in the process of scheduling depositions for the remaining Plaintiffs.

4. With respect to defendant and non-party depositions sought by Plaintiffs, the Parties completed the deposition of Robbin Thomas on March 23, 2023, the deposition of Adam Wigdorski on May 24, 2023, the deposition of Charles Miller on June 2 and 6, 2023; and

the deposition of Octavio Villegas on June 8, 2023. The Parties have agreed to schedule the remaining depositions sought by Plaintiffs as set forth above.

5. On June 1, 2023, Plaintiffs filed a Motion to Permit Sufficient Time to Depose Named Defendant Byron Lockwood.

6. The Parties are working together to complete discovery as expeditiously as possible. Given the complex nature of the claims and defenses, and given the breadth of witnesses who need to testify, however, the parties require additional time to complete discovery. Additional time is also needed so that issues pending both before the Court and between the Parties can be resolved.

7. Accordingly, the Parties respectfully request the modifications set forth above.

8. The Parties thank the Court in advance for its consideration of this request.

WHEREFORE, Plaintiffs respectfully request that the Court modify the schedule as proposed.

Dated: June 14, 2023

Respectfully Submitted,

/s/ Peter A. Sahasrabudhe

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**CERTIFICATE OF SERVICE**

I hereby certify that on June 14, 2023, the foregoing document was filed with the Clerk of the Court and served in accordance with the Federal Rules of Civil Procedure, and/or the Western District's Local Rules, and/or the Western District's Case Filing Rules & Instructions upon all counsel registered through the ECF System.

/s/ Jordan Joachim